

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DAWN M. CLARY,

Plaintiff(s),

v.

Civil Action No. 4:22-cv-03230

SPECTRUM BRANDS HOLDINGS, INC. AND
TRISTAR PRODUCTS, INC.,

Defendant(s).

**DEFENDANT SPECTRUM BRANDS HOLDINGS, INC.’S RULE 12(B)(2) MOTION TO DISMISS
PLAINTIFF’S COMPLAINT FOR LACK OF PERSONAL JURISDICTION.**

Defendant Spectrum Brands Holdings, Inc. (“Defendant Spectrum”) respectfully moves this Court for and Order dismissing the Complaint filed by Plaintiff Dawn M. Clary, pursuant to FED. R. CIV. P. 12(b)(2) (lack of personal jurisdiction). In support of this Motion, Defendant Spectrum contemporaneously submits an accompanying Brief and Index of Evidence. *See Miller v. Redwood Toxicology Lab., Inc.*, 688 F.3d 928, 931 (8th Cir. 2012) (reaffirming that on a Motion to Dismiss a court “may consider some materials that are part of the public record or do not contradict the complaint, as well as materials that are necessarily embraced by the pleadings” (cleaned up)); *Hughes v. City of Cedar Rapids*, 840 F.3d 987, 998 (8th Cir. 2016) (noting a court may consider “documents whose contents are alleged in a complaint and whose authenticity no party questions, but which are not physically attached to the pleadings,” and may also “look outside the pleadings to determine jurisdiction”) (cleaned up)); (Doc. 1, at ¶¶ 10, 14).

WHEREFORE, Defendant Spectrum respectfully requests this Court enter an Order granting its Motion to Dismiss and dismissing it from the case, along with any other or further relief this Court deems just and proper.

SPECTRUM BRANDS HOLDINGS, INC., Defendant

By: David S. Osterman (*pro hac vice to be filed*)
Goldberg Segalla
301 Carnegie Center Drive, Suite 200
Princeton, NJ 08540-6587
(609) 986-1310
dosterman@goldbergsegalla.com

and

By: Baylor Evnen, LLP
Union Bank Place
1248 "O" Street, Suite 600
Lincoln, NE 68508
(402) 475-1075
rgoyette@baylorevnen.com
cschmidt@baylorevnen.com

By: /s/ Randall L. Goyette
Randall L. Goyette, #16251
Christopher M. Schmidt, #26096

CERTIFICATE OF SERVICE

I hereby do certify that I am one of the attorneys of record for the Defendants and that on December 14, 2022, I electronically filed the foregoing using the CM/ECF system, which sent notification of such filing to the following:

Cory Stull
Atwood, Holsten, Brown, Deaver, Spier & Israel Law Firm, PC, LLO
575 Fallbrook Blvd., Suite 206
Lincoln, NE 68521
cstull@atwoodlawyers.com

By: /s/ Randall L. Goyette
Randall L. Goyette, #16251
Christopher M. Schmidt, #26096

4050785